

# MAINE STATE LEGISLATURE

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**LAWS**  
**OF THE**  
**STATE OF MAINE**

AS PASSED BY THE

ONE HUNDRED AND FIFTEENTH LEGISLATURE

FIRST REGULAR SESSION

December 5, 1990 to July 10, 1991

Chapters 1 - 590

THE GENERAL EFFECTIVE DATE FOR  
NON-EMERGENCY LAWS IS  
OCTOBER 9, 1991

PUBLISHED BY THE REVISOR OF STATUTES  
IN ACCORDANCE WITH MAINE REVISED STATUTES ANNOTATED,  
TITLE 3, SECTION 163-A, SUBSECTION 4.

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J.S. McCarthy Company  
Augusta, Maine  
1991

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**PUBLIC LAWS**  
**OF THE**  
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created or the compensation of which ~~shall have~~ has been increased by the action of the school board during ~~such term~~ the time the member serves on the board.

See title page for effective date.

## CHAPTER 197

H.P. 593 - L.D. 844

### An Act Concerning Taxation of Time-share Condominiums

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 33 MRSA §593, sub-§4**, as enacted by PL 1983, c. 407, §1, is amended to read:

**4. Collection and receipt of money for taxes; tax bills.** The managing entity may collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates.

If required by an ordinance enacted by the municipal officers, the managing entity shall collect and receive money from time-share estate owners for the purpose of paying taxes assessed on time-share estates. The ordinance must also require that the municipality send the managing entity a tax bill and information necessary to identify the assessed value of each time-share unit. Nothing in this subsection prevents a municipality from sending separate tax bills to each time-share owner.

Any managing entity that collects taxes shall maintain an escrow account and pay the taxes as provided in subsection 5.

**Sec. 2. 33 MRSA §593, sub-§5**, as amended by PL 1987, c. 358, §2, is further amended to read:

**5. Escrow account.** If the managing entity collects money for taxes, it shall maintain an escrow account with a financial institution licensed by the State, and deposit any ~~moneys~~ money collected or received for taxes in the escrow account within 10 days after collection or receipt. The escrow account ~~shall~~ must be established in the names of both the managing entity and the municipality in which the time-share estates are located. No withdrawal may be made from the escrow account without the written agreement of the municipality.

Prior to the delinquency date established by the municipality in which the time-share estates are located, the managing entity shall pay to the municipal tax collector all money deposited in the escrow account for the purpose of tax payment. If the amount paid from the escrow account is not sufficient to discharge all taxes and tax-related costs, due and owing, the managing entity ~~may~~ shall either pay the difference and place a lien on those time-share estates whose owners

have not contributed to the escrow account as provided in section 594, or ~~the managing entity may~~ provide a list identifying those owners and their interests, including the periods of ownership, to the municipal tax collector who may then proceed to collect the taxes on those interests as allowed by law.

If the tax collector and treasurer use the lien procedure, described in Title 36, sections 942, 942-A and 943; to collect delinquent taxes on time-share estates, whenever a notice called for by Title 36, section 942, 942-A or 943 is sent to a time-share estate owner, the tax collector and treasurer shall give to the managing entity or leave at the managing entity's last and usual place of abode or send to the managing entity by certified mail, return receipt requested, either a copy of the notice sent to the time-share estate owner or a notice ~~which~~ that lists all time-share estate owners to whom notices have been delivered. For sending the notice or notices to the managing entity, the tax collector or treasurer ~~shall be~~ is entitled to receive \$5 plus all certified mail, return receipt requested fees, plus the cost of any photocopying.

See title page for effective date.

## CHAPTER 198

H.P. 480 - L.D. 674

### An Act to Regulate the Construction of Chimneys and Fireplaces and to Amend the Oil and Solid Fuel Laws

Be it enacted by the People of the State of Maine as follows:

**Sec. 1. 25 MRSA §2354** is amended to read:

#### §2354. Inspection of buildings being repaired

~~The~~ Subject to Title 32, chapter 125, the inspector of buildings shall inspect all buildings while in process of being repaired, and see that all reasonable safeguards are used against the catching and spreading of fire and that the chimneys and flues are made safe. ~~He~~ The inspector may give ~~such~~ such directions in writing to the owner as ~~he~~ deems necessary concerning such repairs, ~~so as~~ to render ~~such~~ the building safe from the catching and spreading of fire.

**Sec. 2. 25 MRSA §2432**, as amended by PL 1971, c. 592, §35, is further amended to read:

#### §2432. Removal or repair of defective stoves, boilers and the like

On complaint of any citizen that a ~~chimney~~ chimney, stove, stovepipe, oven, furnace, boiler or appurtenance is defective, out of repair or so placed in any building as to endanger it or any other building, the Commissioner of

Public Safety or municipal officers of any town of not more than 2,000 inhabitants, if satisfied that such complaint is well founded, shall give written notice to the owner or occupant of such building, and if ~~he~~ the owner or occupant unnecessarily neglects for 3 days to remove or repair the same effectually, ~~he~~ the owner or occupant forfeits not less than \$10 nor more than \$100.

**Sec. 3. 25 MRSA §2465, sub-§§2, 3 and 5**, as enacted by PL 1981, c. 622, are amended to read:

**2. Prohibitions.** No person may, for compensation, construct or install any ~~chimney, fireplace, vent or solid fuel burning appliance unless so constructed~~ constructed or installed in accordance with the provisions of the National Fire Protection Association Code #211, "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances". Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 125.

**3. Enforcement.** ~~The~~ Subject to Title 32, chapter 125, the Fire Marshal or his the marshal's designees, Safety Compliance Officers of the Oil and Solid Fuel Board, duly appointed fire chiefs or their designees, and municipal building inspectors and code enforcement officers may enforce the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances" and Title 32, section 2313-A.

**5. Home rule.** ~~Any~~ Subject to Title 32, chapter 125, any municipality may adopt as ordinance requirements for the materials, installation or construction of chimneys, fireplaces, vents or solid fuel burning appliances which exceed the requirements of "The Standards for Chimneys, Fireplaces, Vents and Solid Fuel Burning Appliances".

**Sec. 4. 25 MRSA §2465, sub-§6**, as amended by PL 1989, c. 501, Pt. DD, §33, is further amended to read:

**6. Penalty.** Any person who, for compensation, constructs or installs ~~chimneys, fireplaces,~~ vents or solid fuel burning appliances in violation of the standards, and permits such violation to remain uncorrected after 30 days' notice from any official empowered to enforce this section, shall be considered guilty of a civil violation and shall be subject to a forfeiture of not more than \$500 for each violation. The court may waive any penalty or cost against any violator upon satisfactory proof that the violation was corrected within 30 days of the issuance of a complaint. Construction and installation of chimneys and fireplaces are governed by Title 32, chapter 125.

Any person who fails to provide a purchaser with an instruction manual or the authorized publication of the Department of Economic and Community Development, as described in subsection 5-A, commits a civil violation for which a forfeiture of not less than \$200 nor more than \$500 for the first offense and not less than \$500 nor more than \$800 for each subsequent offense ~~shall~~ must be adjudged. In addition to the civil

penalty provided in this subsection, any violation of this chapter constitutes a violation of Title 5, chapter 10.

**Sec. 5. 32 MRSA §2311, sub-§4**, as amended by PL 1989, c. 320, §1, is repealed.

**Sec. 6. 32 MRSA §2311, sub-§§4-A to 4-C** are enacted to read:

**4-A. Chimney.** "Chimney" means a factory-built, masonry or metal chimney constructed to allow one or more vertical or nearly vertical passageways for conveying flue gases from a building to the outside atmosphere.

**4-B. Chimney or fireplace installer.** "Chimney or fireplace installer" means any person, firm or company who installs chimneys or fireplaces for compensation.

**4-C. Disclosure.** "Disclosure" means a written statement of information provided to a consumer by an installer of chimneys or fireplaces prior to the actual installation.

**Sec. 7. 32 MRSA §2311, sub-§6**, as enacted by PL 1979, c. 569, §4, is amended to read:

**6. Equipment installations.** "Equipment installations" ~~shall mean~~ means the installation, alteration or repair of oil and solid fuel burning equipment, chimneys and fireplaces, as defined in this chapter, including accessory equipment as relating only to the safety of the installation. Associated electrical equipment ~~shall~~ must be wired in compliance with the rules of the Electricians' Examining Board.

**Sec. 8. 32 MRSA §2311, sub-§§6-A and 9-A** are enacted to read:

**6-A. Fireplace.** "Fireplace" means a factory-built or masonry hearth, fire chamber or similarly prepared place.

**9-A. Registered.** "Registered" means that a manufacturer or importer of oil and solid waste fuel burning central heating equipment, prefabricated fireplaces and chimneys or accessory equipment has met all the requirements for registration under this chapter and has been issued a certificate of registration.

**Sec. 9. 32 MRSA §2312**, as amended by PL 1979, c. 606, §9, is repealed and the following enacted in its place:

**§2312. Registration process**

Manufacturers or importers of all equipment for burning oil and solid fuel, prefabricated fireplaces and chimneys or accessory equipment manufactured or imported into this State for sale in this State shall register with the board on forms provided by the board. The forms must set forth, among other items, the name and address of the manufacturer or importer, the types of equipment

manufactured or imported, the appropriate testing standards the equipment has passed and any other information the board requires. A fee not to exceed \$300 must accompany each initial registration. All registrations expire on October 31st of each odd-numbered year or at a time the commissioner designates. Registrations may be renewed by filling out forms prescribed by the board, which must be accompanied by a renewal fee not to exceed \$300.

**Sec. 10. 32 MRSA §2312-A** is enacted to read:

**§2312-A. Issuance of certificate of registration and appeal procedures**

Upon receipt of the registration form, if the applicant is in compliance with this subchapter and the rules of the board, the board shall issue a certificate of registration to the manufacturer or importer. If the board fails to issue a certificate of registration or renewal, the applicant may appeal to the Superior Court in accordance with Title 5, chapter 375, subchapter VII.

**Sec. 11. 32 MRSA §2313**, as amended by PL 1989, c. 320, §2, is further amended to read:

**§2313. Installations to conform to standards**

No installation of oil or solid fuel burning equipment or chimneys and fireplaces as defined in this chapter may be made in the State unless the installation complies with all standards and regulations adopted by the board. Whenever oil or solid fuel burning equipment, accessory equipment or installation thereof are separately contracted, the master burner technician in charge of installation ~~shall~~ be responsible for ascertaining total conformance to the standards. Whenever any state oil and solid fuel compliance officer ~~shall find~~ finds a person installing or assisting in an oil or solid fuel burner installation, the person shall, on request of the compliance officer, provide evidence of being properly licensed; when required by this chapter and, if unable to provide the evidence, shall furnish the compliance officer with that person's full name and address and, if applicable, the full name and address of the master in charge.

**Sec. 12. 32 MRSA §2313-A** is enacted to read:

**§2313-A. Disclosures; penalties**

Effective January 1, 1992, a chimney or fireplace installer must issue a disclosure to any consumer prior to the installation taking place. Disclosures must be in a format determined by the board and contain the information the board considers necessary.

Any chimney or fireplace installer who fails to provide a disclosure to a consumer prior to the installation of a chimney or fireplace commits a civil violation for which a forfeiture of not less than \$500 may be adjudged.

**Sec. 13. 32 MRSA §2315**, as amended by PL 1989, c. 320, §3, is further amended to read:

**§2315. State oil and solid fuel compliance officers**

State oil and solid fuel compliance officers, upon written complaint of any owner, lessee or tenant of a building, state fire inspector, fire chief, fire department inspector, personnel of an electric utility or local electrical inspector, or whenever they ~~shall deem~~ consider it necessary, for purposes of examination of the burner, chimney or fireplace installation, may at all reasonable hours enter into and upon all buildings or premises within their jurisdiction and inspect the buildings or premises. The inspectors may enter any building only with the permission of the person having control thereof or, after hearing, upon order of the court. Whenever any such compliance officer ~~shall find~~ finds any burner, chimney or fireplace installation in any building or structure ~~which that~~ does not comply with the requirements of this chapter, that officer shall order the burner, chimney or fireplace to be removed or remedied, and the order ~~shall~~ must forthwith be complied with by the owner or occupant of that building or structure or the installer of the equipment. The owner, occupant or installer may, within 7 days, appeal to the Oil and Solid Fuel Board, which shall, within ~~10 days~~ a reasonable time, review the order and file its decision thereon, which decision ~~shall~~ must be complied with within such time as may be fixed in the decision of the board. In the event any person, firm or corporation fails or refuses to carry out any such order of any oil or solid fuel burner compliance officer or decision of the board, a court may order appropriate ~~injunctive~~ relief. State oil and solid fuel compliance officers ~~shall have the authority to~~ may review the burner, chimney or fireplace installation records of any person licensed under this chapter or any person performing installations as authorized under this chapter.

**Sec. 14. 32 MRSA §2316**, as amended by PL 1989, c. 320, §4, is further amended to read:

**§2316. Failure to comply with order of compliance officer**

If the owner, occupant of any building or an installer neglects or refuses, without justification, for more than 10 days to comply with any order of an oil or solid fuel burner compliance officer concerning oil or solid fuel burner, chimney or fireplace installations as provided by this chapter, that person commits a civil violation for which a forfeiture of not less than ~~\$5~~ \$100 for each day's neglect may be adjudged.

**Sec. 15. 32 MRSA §2352, last ¶**, as amended by PL 1979, c. 569, §8, is further amended to read:

~~Oil and solid fuel burner compliance officers appointed under this section shall have the same powers throughout the several counties of the State, as sheriffs have in their respective counties, relating to enforcement of the provisions of this chapter, standards adopted there-~~

~~under and rules or regulations promulgated thereunder. Oil and solid fuel burner compliance officers have the power to conduct investigations, issue citations, serve summonses and order corrections of violations in accordance with this chapter.~~

**Sec. 16. 32 MRSA §2353**, as repealed and replaced by PL 1983, c. 413, §119, is amended to read:

**§2353. Meetings; rules**

The board shall meet at least once a year to conduct its business and elect its officers. Additional meetings ~~shall~~ may be held as necessary to conduct the business of the board, and may be convened at the call of the ~~chairman~~ chair or a majority of the board members. Four members of the board ~~shall~~ constitute a quorum for all purposes. The board may adopt standards and rules as it ~~shall deem~~ necessary, pursuant to the Maine Administrative Procedure Act, Title 5, chapter 375, for the holding of examinations and for carrying out this chapter, and provide for reciprocity of licensing with similar boards of other states ~~which that~~ maintain standards equivalent to those provided under this chapter. The board may establish fees and charges necessary for covering the costs incurred for ~~approving equipment~~ registering manufacturers and importers. The manufacturer or ~~his representative importer~~ shall be required to pay all fees and charges established by the board or incurred by the board in the process of investigating or verifying the safety of equipment sold in the State.

**Sec. 17. 32 MRSA §2354**, as repealed and replaced by PL 1973, c. 384, is amended to read:

**§2354. Disposal of fees**

All fees received by the board ~~shall~~ must be paid by the ~~executive secretary~~ board to the Treasurer of State to be used for carrying out this chapter. Any balance of ~~said~~ the fees ~~shall~~ does not lapse, but ~~shall be~~ is carried forward as a continuing account to be expended for the same purposes in the following fiscal years.

**Sec. 18. 32 MRSA §2401-A, sub-§3**, as enacted by PL 1979, c. 569, §13, is amended to read:

**3. Mechanics.** The installation of pipng air-handling equipment, sheet metal and other specialized equipment and services associated with the oil or solid fuel burning equipment may be made by qualified mechanics of those trades who do not hold an oil or solid fuel burner technician's license. The installations ~~shall~~ must conform to the standards; and rules ~~and regulations~~ of the board and ~~shall~~ must be made under the supervision of a master oil or solid fuel burner technician having responsibility for the installations;

**Sec. 19. 32 MRSA §2402, sub-§2**, as amended by PL 1987, c. 395, Pt. A, §172, is further amended to read:

**2. Fees.** An application fee and an examination fee may be established by the board in amounts which are reasonable and necessary for their respective purposes. Original and renewal license fees may be established by the board in amounts which are reasonable and necessary for their respective purposes. The fees may not exceed the following amounts:

A. Master, original license, ~~\$100;~~ and biennial renewal fee, \$200;

B. Journeyman, original license, ~~\$50;~~ and biennial renewal fee, \$100; and

C. Apprentice, original license, ~~\$20;~~ and biennial renewal fee, \$40.

~~When the unexpired term of license of an applicant is or will be more than one year at time of licensure, the board may require the applicant to pay an additional fee not to exceed 1/2 the biennial renewal fee.~~

~~A person holding a license as a master oil burner technician is not required to pay a fee to be licensed as a master solid fuel burner technician, as long as he meets all other requirements and pays the examination fee required by section 2403. A person holding a license as a master solid fuel burner technician is not required to pay a fee to be licensed as a master oil burner technician, as long as he meets all other requirements and pays the examination fee required by section 2403. Any person who has paid a fee for both master licenses held simultaneously shall be given a credit for one license fee less the examination fee, which shall be applied to the next renewal.~~

Applicants applying for an initial license with a term of one year or less are required to pay only 1/2 the biennial license fee.

**Sec. 20. 32 MRSA §2404**, as amended by PL 1983, c. 413, §125, is further amended to read:

**§2404. Renewals**

All licenses ~~shall~~ expire biennially on December 31st as to a master technician and biennially on June 30th as to other licenses. The expiration dates for licenses issued under this chapter may be established at such other times as the Commissioner of Professional and Financial Regulation may designate. The licenses may be renewed on a biennial basis without further examination upon the payment of the proper fee. The board shall notify everyone registered under this chapter of the date of expiration of ~~his~~ the license and the amount of fee required for its renewal for a 2-year period. The notice ~~shall~~ must be mailed to the person's last known address at least 30 days in advance of the expiration date of ~~his~~ the license. A license may be renewed up to 90 days after the date of expiration upon payment of a late fee of \$10 in addition to the renewal fee. Any person who submits an application for renewal more than 90 days after the license re-

newal date ~~shall be~~ is subject to all requirements governing new applicants under this chapter, except that the board may ~~in its discretion~~, giving due consideration to the protection of the public, waive examination ~~if the renewal application is made within 2 years from the date of the expiration or other requirements.~~ The board may assess penalties for late renewals more than 90 days after the date of expiration.

**Sec. 21. 32 MRSA §2405**, as amended by PL 1981, c. 561, is repealed.

**Sec. 22. Allocation.** The following funds are allocated from Other Special Revenue funds to carry out the purposes of this Act.

	1991-92	1992-93
PROFESSIONAL AND FINANCIAL REGULATION, DEPARTMENT OF		
Oil and Solid Fuel Board		
Personal Services	\$1,500	\$1,500
All Other	11,500	11,500
Provides funds for per diems and board expenses, printing, advertising and rulemaking relating to the regulation of chimney and fireplace installers.		
DEPARTMENT OF PROFESSIONAL AND FINANCIAL REGULATION		
TOTAL	\$13,000	\$13,000

See title page for effective date.

**CHAPTER 199**

**H.P. 201 - L.D. 292**

**An Act to Increase Public Awareness of the Availability of Living Wills**

**Be it enacted by the People of the State of Maine as follows:**

**29 MRSA §540-B** is enacted to read:

**§540-B. Living wills**

Subject to available funding, the Secretary of State shall make living will forms available in offices of the Division of Motor Vehicles. The form must be in substantially the form provided in Title 18-A, section 5-702 and with the addition of a title at the top of the form to read "LIVING WILL" and the following information at the end: "Completion of this form is optional."

See title page for effective date.

**CHAPTER 200**

**S.P. 265 - L.D. 742**

**An Act Relating to Health Insurance**

**Be it enacted by the People of the State of Maine as follows:**

**PART A**

**Sec. A-1. 24 MRSA §2342, sub-§3**, as enacted by PL 1989, c. 556, Pt. C, §1, is amended to read:

**3. Information required.** Each person, partnership or corporation licensed pursuant to this section shall, at the time of initial licensure and on or before April 1st of each succeeding year, provide the Bureau of Insurance with the following information:

- A. The process by which the entity carries out its utilization review services, including the categories of health care personnel that perform any activities coming under the definition of utilization review and whether or not these individuals are licensed in the State;
- B. The process used by the entity for addressing beneficiary or provider complaints;
- C. The types of utilization review programs offered by the entity, such as:
  - (1) Second opinion programs;
  - (2) Prehospital admission certification;
  - (3) Preinpatient service eligibility determination; or
  - (4) Concurrent hospital review to determine appropriate length of stay; and
- D. The process chosen by the entity to preserve beneficiary confidentiality of medical information.

As part of its initial application, the entity shall submit copies of all materials to be used to inform beneficiaries and providers of the requirements of its utilization review plans and their rights and responsibilities under the plan.

**Sec. A-2. 24-A MRSA §2771, sub-§3**, as enacted by PL 1989, c. 556, Pt. C, §2, is amended to read:

**3. Information required.** Each person, partnership or corporation licensed pursuant to this section shall, at the time of initial licensure and on or before April 1st of each succeeding year, provide the Bureau of Insurance with the following information:

- A. The process by which the entity carries out its utilization review services, including the categories of